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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,621	12/18/2001	David Slocum	24837/04231	3926

24024 7590 09/25/2003

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EXAMINER

PHAM, HOA Q

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,621

Applicant(s)

SLOCUM ET AL.

Examiner

Hoa Q. Pham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-11, 15, 21-22, 26, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Klefbeck (4,562,983).

The teachings of Klefbeck read on claims 1-4, 6-11, 15, 21-22, 26, and 29-31 of the present application.

Regarding claims 1, 26 and 31, Klefbeck discloses a case (bag) (6) having a shape, a plurality of case supporting elements (8) extending from the case uniformly distributed around a perimeter of the case (figures 1 and 2).

Regarding claim 2, figures 1-2 show that the support elements (8) are a separate support structure from the case.

Regarding claim 3, figure 1 show that the support elements are integral with the case.

Regarding claim 4, figures 1-2 show three case supporting elements.

Regarding claims 6-7 and 29, each of the supporting elements (8) comprising a foot (6) at the end of each supporting element.

Regarding claims 8-9, see figure 2 for equidistant from each element (120 degree) (column 2, lines 47-48).

Regarding claims 10 and 30, see figure 1 of Klefbeck for a plurality of suction cups (column 2 line 37).

Regarding claim 11, figure 2 shows that the case supporting elements joint together at a triangular cavity.

Regarding claim 15, the case (bag) is a hollow piece.

Regarding claim 21, see fastening means (20) in figure 2.

Regarding claim 22, see fastening means (24) in figure 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 12-14, 16-20, 23-25, and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klefbeck in view of Skop Jr. et al (5,270,540).

Regarding claims 5 and 27, it would have been obvious to one of ordinary skill in the art to modify the shape of the support elements, for example, a "C" shape as now claimed by the present invention because the shape of the element involves only routine skill in the art.

Regarding claims 12, Klefbeck et al does not teach that the supporting elements could be used for supporting a monitor calibrator. Skop et al discloses a monitor calibrator in which the suction cup assembly (14) is used for supporting the monitor

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(15). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the supporting elements taught by Klefbeck for supporting the monitor calibrator of Skop et al because they both teach the use of suction cup as a supporting element. A substitute one for another is generally recognized as being within the level of ordinary skill in the art.

Regarding claim 13, it would have been obvious to include in Skop et al a diffuser. The rationale for this modification would have arisen from the fact that using such diffuser would increase the uniformity of the intensity from the light source.

Regarding claim 14, it would have been obvious to include in Skop a shielding layer at the bottom of the housing, thus to prevent ambient light that may enter the calibrator.

Regarding claim 16, figure 2 of Skop et al shows top half (12b) and bottom half (12a).

Regarding claims 17-20 and 23-24, It would have been obvious to use any kinds of fasten means because they would function in the same manner.

Regarding claim 25, figure 2 of Skop shows that electronic and optic components (22, 24, 29, etc..) locate within the house (12).

Regarding claim 28, Klefbeck teaches that the supporting elements (8) comprising a foot (6) at the end of each supporting element.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

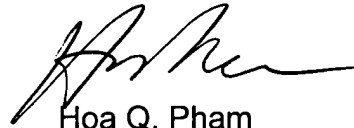
§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoa Q. Pham whose telephone number is (703) 308-4808. The examiner can normally be reached on 6:30 AM to 5 PM, Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (703) 308-4881. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Hoa Q. Pham
Primary Examiner
Art Unit 2877

HP
September 11, 2003